



AUDIT OF
THE DEPARTMENT OF NATURAL RESOURCES
AIR POLLUTION CONTROL PROGRAM
NEW SOURCE REVIEW UNIT

**From The Office Of State Auditor
Claire McCaskill**

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Establishing a pre-screening unit to process applications for air quality construction permits will enhance timeliness of processing and improve customer service



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Reorganizing the New Source Review Unit of the Air Pollution Control Program and creating additional improvements and enhancements will improve timeliness of processing air quality permit applications and improve customer service.

At the request of the Director, Department of Natural Resources (DNR), the State Auditor's Office audited the department's Air Pollution Control Program's (APCP) New Source Review Unit's (NSRU) procedures and practices for issuing construction permits. The purpose of the audit was to determine if the New Source Review Unit was processing construction permit applications and issuing permits in a timely manner. The impetus for the request and the audit was the desire to address concerns raised by the industries regulated by the Air Pollution Control Program.

We examined construction permit application statistics for the nine month period January 1999 to October 1999, and in conjunction with an agreement that the two month period September 1999 and October 1999 would be representative, we reviewed all applications processed during that period.

We determined that the New Source Review Unit had made good progress in addressing the concerns of the regulated industry by establishing a task force to review their own policies and procedures, developing Internet capability, and revising construction permit applications and instructions to make them user-friendly.

We concluded that by reorganizing the functions of the New Source Review Unit and making additional enhancements, the New Source Review Unit would perform more effectively and be more responsive to its customers. Our recommendations addressed the following areas:

- ❑ A prescreening unit should be established to screen out the incomplete applications and to ensure that technical engineers are devoting their time to applications that can be processed.
- ❑ Accounting duties currently performed by engineers should be transferred to the accounting department.
- ❑ Non-professional staff should be hired to review the less complicated applications.
- ❑ Improvements could be made in several aspects of processing the applications during the various review stages to include obtaining supervisory approval before placing the application on hold awaiting comments from the industry.

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YELLOW SHEET

- ❑ Improvements could be made in managing fees and interest for processing construction permit applications.
- ❑ Better financial and management reports are needed to assist executives in decision-making.
- ❑ Improvements could be made in the website to make it more user-friendly, and additional industries should be evaluated to determine applicability of the permit-by-rule concept to ease the application burden for these industries.

The Department of Natural Resources agreed with most of the recommendations and provided acceptable implementation plans.

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Missouri State Auditor

Honorable Mel Carnahan, Governor
Members of the General Assembly
Members of the Air Conservation Commission
Director, Department of Natural Resources
Director, Air Pollution Control Program

At the request of the Department of Natural Resources (DNR), we audited the Air Pollution Control Program's (APCP) New Source Review Unit (NSRU). DNR requested a review of the NSRU as a result of concerns expressed to the DNR and the Governor's office from various industry groups and business associations located in the state of Missouri.

The objective of our audit was to determine whether construction permit applications were processed, and reviewed, and issued in accordance with Missouri statutes and the Code of State Regulations, and to determine whether the NSRU was responsive to the needs of businesses that are required to have construction permits.

We determined that the NSRU had made good progress in addressing the concerns of the regulated industry by establishing a task force to review their own policies and procedures, developing Internet capability, and revising construction permit applications and instructions to make them user-friendly.

We concluded that the NSRU could improve its organizational structure, process flow of construction permit applications, assessment and collection of fees, and management information reporting system as well as develop other enhancements to more efficiently and effectively issue construction permits and meet the needs of businesses requiring construction permits.

The Department of Natural Resources agreed with most of the recommendations and provided acceptable implementation plans. We will follow-up on these plans until the recommendations are implemented.

Claire McCaskill
State Auditor

March 10, 2000 (fieldwork completion date)

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RESULTS AND RECOMMENDATIONS

1. Organization of the New Source Review Unit (NSRU)

Construction permit processing times and workload management within the NSRU could be improved by reorganizing functions. Engineers responsible for reviewing construction permit applications are frequently distracted from their tasks because (i) applications are not complete, (ii) letters from industry seeking advice as to whether a construction permit is required are processed as permit applications, and (iii) engineers are performing accounting functions such as billing and follow-up. The NSRU could improve timeliness of processing construction permit applications, improve staffing levels, and enhance customer satisfaction by establishing a unit to pre-screen permit applications, reassigning accounting functions to the accounting department, and hiring program specialists to review the less complex permits.

The NSRU is responsible for processing permits for new construction.

The NSRU is an integral part of the Air Pollution Control Program (APCP) and was established to ensure that emissions of air pollutants by businesses involved in new construction do not exceed the safe levels established by federal and state law. The NSRU derives its authority from Section 643.075 RSMo and 10 CSR 10-6.060 of the Code of State Regulations. The NSRU is staffed with a section chief, unit chief, staff engineers, and support staff. It also uses the assistance of a construction permit action tracking system to record the activity on each permit application received. *(See Appendix IV, page 31, for a flowchart of the process flow of the permit application process).*

Processing of Construction Permits in the NSRU

After interviewing program and operating officials, testing the processing of applications, reviewing industry questionnaire results, and benchmarking with other states, we determined construction permits could be processed more timely.

Processing of Incomplete Permit Applications

Construction permit applications are assigned to engineers when received. Engineers are required to complete a checklist to ensure the permit application is complete including the receipt of the appropriate filing fee before subjecting the permit application to the technical review phase. We noted permit applications that were either incomplete or did not contain proper information, thus requiring engineers to spend additional time contacting the applicant to correct information in the application or request more data.

Applications
are not
complete

A checklist was required for 57 projects received during the test months of September and October 1999. The applications for 11 of these projects (19%) were either incomplete or did not contain enough information. As a result, the processing of these

permits was suspended for a total of 813 days, or an average of 74 days, awaiting additional information. The range for these projects was from 5 to 288 days. This required the engineers to make numerous inquiries to the applicants and follow-up to attempt to get a permit into the technical processing phase. Of the total time it takes from receipt of an application to issuance of the permit, it takes from 17 to 31 percent of the total permit processing days, depending upon the type of permit, to get an application ready for technical review. *(See Appendix III, page 28, for charts on processing times).*

We noted a particular problem with Section 5 and 6 construction permit applications (these are categorized in the CSR as De Minimis¹ and minor construction projects). We determined that, it takes 2.6 hours of engineer time to review the application for those requiring no permits. Also, it takes an average of 56.5 days to send the “no permit required” letter to the applicant. The lengthy time to notify industry can mostly be attributed to the need to acquire more information. In our 2-month sample, 38 of the 113 applications (34 percent of the total applications) were De Minimis requests.

Processing of Permit Determination Letters

For the period January 1, 1999 through October 31, 1999, the NSRU received 154 letters from entities seeking advice as to whether a construction permit was required. Only 58 letters (37.7%) resulted in the decision that a permit was required and 96 letters (62.3%) resulted in a permit not being required. Based on our review of engineer time charges, we noted it takes approximately 1.1 hours of engineer time to review each letter, but it takes approximately 30 days to complete the letter review process and either notify the applicant that a permit is not required or that a formal permit application needs to be submitted. The lengthy time to notify the applicant results from the need to gather more information from the applicant and follow-up to ensure the information is submitted. In the 2-month sample, 25 of the 113 applications (22 percent of the total applications) were request letters seeking advice as to whether a construction permit was required.

Most letter requests do not require permits

We concluded that by establishing a pre-screening unit in the NSRU, engineer time would be saved and could be used for the more complex tasks. Additionally, since RSMo Section 643.075 prescribes that the NSRU will process permits within 90 days (Class B) or 184 days (Class A); NSRU would be in a better position for meeting that deadline if only complete applications were sent to the engineers. We envision that a pre-screening unit would receive all letters and applications, review them to see what action is needed, and contact the applicant as necessary to obtain any additional information needed before sending the application to the engineers for technical review. This unit would also be able to respond if a construction permit is not required and notify the applicant accordingly. The goal of the unit would be to make sure the engineers only get applications for permits, and that these applications are complete and ready for technical review.

¹ De Minimis is categorized as less than a minor construction project

We noted that the states of Kansas, Iowa, Nebraska, and Arkansas use pre-screening units.

NSRU Accounting Procedure

Engineers are responsible for performing accounting functions they are not trained to do. Nor, should they be expected to perform these functions. These functions include determining billing amounts, sending bills for filing and processing fees, and following up on bills that have not been paid. We noted that basic accounting controls are not established and there is no assurance that NSRU is receiving the fees that are due. NSRU does not have a formal accounting system for billings, matching receipts against billings, maintaining appropriate accounts receivable records, or for properly accounting for refunds of filing and process review fees. Instead of pre-numbered billing invoices, the NSRU sends bills by letter.

Transfer
accounting
functions

The NSRU does not have formal accounts receivable records to track the billing and subsequent receipt of fees. As a result, the NSRU cannot readily determine the total amounts due from applicants. Fees received and transmitted to the state treasury are not reconciled to fees received and processed through the Permit Action Tracking System (PATs). Therefore, there is less assurance that the numbers in the PATs are accurate.

These additional duties detract from the primary mission of the engineers, which is to make technical reviews and decisions on the need for construction permits. The billing, accounts receivable, and follow-up functions are more appropriately performed and managed by an accounting section and we recommend that all of these accounting duties be transferred to the DNR accounting office. The engineers would be required to track billable time and notify the accounting section who would proceed to ensure that the bills are sent, formal accounts receivable are established, fees are obtained, and refunds, when warranted, are mailed.

NSRU Staffing Levels

The NSRU is having difficulty in attracting and retaining engineers. Currently, excluding the section and unit chiefs' positions, the NSRU is authorized a total of 11 engineer positions of which only 7 are filled. Two of the four remaining vacant positions have never been filled. This has an impact on the NSRU's ability to process permit applications on a timely basis. According to the NSRU's backlog report at November 15, 1999, a total of 55 construction permit applications took over twice the time originally planned to process. The inability of the NSRU to fill the vacant engineer positions with qualified engineers has contributed to processing delays.

Seek
alternatives to
fill staffing
needs

The NSRU has taken steps to fill the vacant positions, however, the salary levels available for engineers are lower than the salaries offered in the private sector. As a result, it is difficult to obtain the necessary qualified engineers. Based on discussions

with the NSRU's section chief and unit chief, engineer salaries in the private sector are approximately \$10,000 to \$15,000 higher than comparable annual state salaries for engineers. The NSRU needs to request increases in engineer salaries to a level competitive with private industry to enable it to attract and retain qualified engineer personnel. Further, for those times when the section is experiencing excessive work loads, external engineering consulting firms should be used to relieve the excess workload.

We analyzed the NSRU's workload and determined that 215 projects were in process at October 31, 1999 of which 191 (89%) were De Minimis or lesser type projects. These 191 projects, although required by statute to be completed in 90 days or less, had been in process an average of 5 months or more. These requests may be able to be handled by non-engineer employees. Some of the excess time is due to the various projects being placed on hold awaiting additional information from the applicant. If a pre-screening unit were established, many of these applications would not reach the engineers. Some of the excess time occurs because these type permits receive lower priority attention from the engineers.

Our review of other states' procedures noted that the state of Nebraska uses Program Specialists (non-engineer employees) to review permit applications with engineer oversight. The NSRU executives need to conduct a detailed analysis of their workload and determine what duties and functions could be performed by non-engineer personnel. Once this has been determined, the number of necessary engineer and non-engineer positions should be determined and filled.

Recommendations

- A. Establish a pre-screening unit to ensure engineers are only given permit applications that are complete and ready for the engineers' technical reviews.
- B. Transfer accounting functions to DNR's accounting office.
- C. Request salary increases for engineers at or near private sector levels.
- D. Analyze current workloads to determine the:
 - 1. duties and functions that could be performed by non-engineer employees,
 - 2. number of engineer and non-engineer personnel needed to perform the NSRU functions, and recruit and hire staff accordingly.

Department of Natural Resources Comments

DNR agreed with all four recommendations stating that a new unit will be established and staffed with non-engineers to check applications for administrative completeness. They advised that engineers would still receive some applications that will require additional technical

information. DNR agreed to transfer accounting functions to the Air Pollution Control Program accounting office. DNR agreed to pursue alternatives for increasing salaries for engineer staff, especially non-registered engineer staff. DNR advised that the new unit to be established would handle workload analysis functions. (Full text comments are included as Appendix VI, page 34).

State Auditor Comments

The responses to the recommendations are acceptable, and we will follow up on the implementation plans.

2. Construction Permit Application Process Flow

The construction permit review process has delays that can be avoided. These delays occur in all stages of the review process, and increase the time that companies have to wait for their construction permits. We attributed the cause for these delays to staff and management not having or taking the time to reevaluate how the work is performed. As a result, a small amount of processing fees had to be forfeited because the applications were not processed on time, and the vulnerability for more forfeiture exists. Additionally, one third of the respondents to our questionnaire believed that the permit process took too long.

Processing of Construction Permits in the NSRU

We reviewed permit applications that were completed during September and October 1999. We analyzed the applications from their entry to the NSRU and identified specific areas where delays in processing were occurring and assessed whether these delays were avoidable.

Processing of Permit Application at the Receptionist

The receptionist within the APCP receives a permit application with a check for the filing fee and sends the application and the filing fee to the Administration Section to have the fee processed and deposited. As a result, the application is not processed until after the filing fee is accepted and recorded. The NSRU can improve timeliness by separating the checks for filing fees from the applications and allowing simultaneous processing of the application and the filing fee.

Separate
checks from
applications

Construction Permit Applications Assignment Timeframe

The number of days from the time an application is received until it is assigned to an engineer for review is sometimes excessive. The standard timeframe, according to the construction permit review procedures manual is 3 days. As noted in Appendix III, as much as 28 percent of the total number of processing days for a project is spent waiting to get the project assigned to an engineer depending on the specific type of project.

Review delays
in assignments

It took from 1 to 17 days to assign complete applications to engineers, and 34 out of 113 projects reviewed (30%) took longer than 3 days to get assigned to an engineer. These 34 projects ranged from 4 to 17 days averaging in excess of 5 days each.

The causes for these delays can be attributed to:

- ❑ Lower priority applications (De Minimis and minor) being delayed.
- ❑ Lack of staff to accomplish reviews of all applications ready for review.
- ❑ Staff attempting to process incomplete applications which impacts on their ability to accept a new application for review.

Completeness Checklist

The application checklist is the management tool for ensuring that permit applications are complete. The engineer completes the checklist before technical review of the application can begin. According to 10 CSR 10-6.060, the standard for completing the checklist is 30 days.

In our review of 113 projects, 8 (7%) exceeded 30 days for the completeness check. The range of days for the completeness checklist for these cases ranged from 31 to 139 days. *(See Appendix II, page 25, for statutory and regulatory guidance regarding a completed application).*

Based on discussions with NSRU personnel, these particular projects were not assigned a high priority and thus were allowed to exceed the 30-day limit due to more important projects being worked on at the time. The underlying causes for delay make all applications vulnerable to these types of time slippages.

Request for Additional Information

Delays occurred during technical review because additional information was needed or because the applicant requested a delay in processing. Some delays were of sufficient length to consider canceling the project. Examples follow.

A De Minimis project application was put on hold for 210 days. The applicant called and asked the NSRU to place the application on hold. Two months later, the NSRU tried to call the applicant, but the applicant could not be reached by phone and a letter was sent to determine if the applicant wanted to proceed with the application. The applicant called 2 weeks later and the application was placed on hold for another 30 days. A week later the application was assigned to a new engineer. The application stayed on hold for an additional 4 months until the applicant finally brought in new information.

Long delays in
completing
applications

Another De Minimis project application was placed on hold for 339 days. The NSRU requested more information from the applicant. Three months later a follow up letter was sent, and the response stated that the application would be modified. Seven months later, after no further input from the applicant, the NSRU sent a letter requesting the modifications. The new information finally arrived and the fees were received and the permit subsequently was issued in October 1999.

An application requesting an amendment to a permit was placed on hold for 316 days. The NSRU sent a technical request letter to the applicant. A response was not received to this request and a second technical request letter was sent 10 months later. Information and fees were finally received and a permit issued in October 1999.

Our review of the 113 projects in our 2-month sample indicated a total of 32 projects were put on hold for a total of 1,760 days with delays ranging from a low of 1 day to a high of 361 days and an average of 55 days for each project.

These examples exemplify the difficulties encountered when the applicant does not respond properly or timely, and when the NSRU does not follow-up. More timely follow-up may have brought these projects to a conclusion sooner.

The process of placing applications in a hold status is designed to ensure that the 90-day processing time requirement outlined in the statutes is not breached, which in turn would allow the NSRU to bill the applicant for fees because the days the project is in hold status are not counted toward the 90-day requirement. In our opinion, when projects are in a hold status as long as these were, the best action would be to cancel the project and bill the applicant for the processing fees that were incurred up to the point of cancellation.

Placing Applications on Hold

Technical review engineers can place an application on hold during the technical review for whatever reasons they feel necessary. Some of these reasons concern requesting additional information. In the survey responses we received, 20 percent of the respondents said that the engineers requested unnecessary information from them. Additionally, 34 percent of the respondents said that the permit application process took longer than reasonably necessary.

Require
supervisory
approval

When an application is placed on hold, the engineer moves on to another application until the applicant responds. Since there may be other alternatives to solving the engineer's problem, we believe supervisory approval is needed before any application is placed on hold. Supervisors are more experienced, may have encountered the same or similar problem before, and are in the position to make the best decision for the circumstance, and to make the decision necessary to keep the process moving.

Construction Permits Mail Outs

10 CSR 10-6.060 (13)-(16) states that permits will be issued no later than 3 calendar days after receipt of the processing fees. The NSRU did not issue the permits within 3 calendar days for 14 of the 113 projects (12%) included in our 2-month review. The number of days to issue a permit on the 14 cases ranged from 4 to 7 days. Based on discussions with the unit chief, these delays are caused by a lack of secretarial help. *(See Appendix II, page 25, regarding the statutory and regulatory guidance on this issue).*

Executive Review Procedures

Executive review is the last stage in permit processing before a decision is made to issue a permit. Our 2-month test disclosed that executive review time accounted for 23 percent to 40 percent of the total processing times for the various types of permit applications. *(See Appendix III, page 30, for charts showing processing times)*. The average time in executive review for the various type of permit applications exceeded the standard time frames allowed per the NSRU's construction permit review procedure manual. The average times noted for each type of permit application excludes the number of days when the applications were placed on hold awaiting payment of fees.

Improve
executive
review times

Type of Permit Application	Standard Days	Average processing days
Unified Major Permits	24	30
Amendments to Permits	5	16
De Minimis	24	27

Executive level staff advised us that the amount of time permits are in executive review can be attributed to the applications competing for priority with other duties and to a lack of adequate secretarial help, and the return of the construction permit applications back to the engineers for further work or information when necessary. In our opinion, some of the executive review time could be reduced or eliminated by changing procedures. Currently, the Section Chief approves Section 4 permit relocation letters while section 5 & 6 De Minimis permits are approved by the Director of the Air Pollution Control Program. In our opinion, the NSRU unit chief could be delegated the authority to approve applications for De Minimis and minor projects, relocation projects, and amendments to existing permits.

Construction Permit Processing Fees

Our review of the 113 projects during the 2-month test period noted 2 projects where the processing days exceeded the mandatory standard times and resulted in forfeiture of processing fees.

One of the projects was a De Minimis Section 5 application. It took 145 days to issue the permit. The project was in technical review for 69 days and executive review for 68 days. A De Minimis Section 5 permit has a mandatory 90 days for processing. In our opinion, the executive review time was the major contributor to this loss of fees. The standard time for executive review is 24 days for De Minimis projects. The NSRU lost \$475 in review fees on this project.

Processing
fees were
forfeited

The other permit application was for a Section 4 Relocate to a New Site. It took 45 days to issue the permit. This project was in technical review for 32 days and executive review for 9 days. A Section 4 Relocate to a New Site has a mandatory 21 days for processing. The NSRU lost \$175 in review fees on this project.

The vulnerability for forfeiture of fees is prevalent for all applications. Forfeiting fees is the ultimate outcome of the compilation of missed deadlines in the various phases of processing permits.

Conclusion

We determined that the process flow of applications through the NSRU could improve. Many of the delays and causes for delays in processing the permit applications can be attributed to the issues discussed in Result 1 of this report. Our recommendations to establish a pre-screening unit and hire non-engineering personnel, if implemented, would alleviate most of the delays discussed above. Without the implementation of this recommendation, supervisors will have to devote more attention to the assignment of application reviews and the activities of the individual engineers to ensure that the time spent on the reviews is appropriate. Additionally, the process flow can be improved by implementing the following recommendations.

Recommendations

- A. Separate the fee check from the application and send the application immediately to the permitting section to begin processing. The check and a photocopy of the front page of the application could be sent to administration to be processed simultaneously.
- B. Review the time it takes to assign projects to engineers and ensure projects are assigned on a timely basis.
- C. Monitor the processing times in all phases of the application review process and, take action to ensure standard time frames are met.
- D. Develop maximum time standards for projects placed on hold after which the applications would be canceled.
- E. Ensure that follow-up action is timely for projects placed on hold awaiting additional information.
- F. Require supervisory approval before placing any project on hold.
- G. Delegate the authority to approve permits for the lower priority applications to the Unit Chief.
- H. Establish a warning system for executives to ensure that their reviews are complete before fees are forfeited.

Department of Natural Resources Comments

DNR agreed with five of the eight recommendations, provided acceptable alternative corrective action to two recommendations, and disagreed with one recommendation. DNR agreed to separate fee checks from applications to enhance simultaneous processing of fee payments and permit application review. DNR agreed to reevaluate the time it takes to assign projects to engineers. DNR agreed to improve monitoring of the processing times within each step of the permit review process. Rather than agree to immediately establish maximum time standards for projects placed on hold, DNR suggested that a rule change and legal support are needed and stated that until such time this can be pursued they will establish a new step called Inactive Status for those permit applications put on hold for a longer time. DNR agreed to follow-up on applications placed on hold and shorten the timeframe for projects placed on hold from 30 to 10 days. DNR agreed to initiate a process where projects placed on hold will be reviewed weekly by the NSRU Chief, and to improve documentation of projects placed on hold in lieu of our recommendation to require supervisory approval before placing projects on hold. DNR did not agree with our recommendation to delegate the authority for approval of lower priority permits to the Unit Chief citing the need for coordination beyond the unit chief level before permits are approved. DNR agreed to evaluate the capability to establish a warning system for executives within their automated system. (Full text comments are included in Appendix VI, page 34).

State Auditor Comments

The response to the recommendations is satisfactory. We agree with the alternatives suggested for the recommendations to which DNR agreed in part. We will follow-up on the implementation plans.

3. NSRU Staff Could Improve Management of Fees that Are Received for Construction Permits

Better procedures and supervisory oversight are needed to ensure that engineers properly recognize their financial responsibilities when processing permit applications. Our review determined that some fees were not collected when they should have been, some refunds were due but not made, and some bills for fees were generated when they should not have been. We attributed the cause for these conditions to a lack of procedures and lack of attentiveness in performing the financial aspects of permit processing.

Fees and interest should be billed and collected when appropriate

We determined that there were at least two circumstances where fees were due but not collected. First, according to CSR 10-6.060 (10)(A)3 and 5, permit applications that are denied or withdrawn after submittal shall be charged fees at the same rate as processed permits. The NSRU was not billing and collecting these fees when applications were withdrawn. In our 2-month sample of 113 permit applications, 4 permit applications were either withdrawn or denied, and fees in the amount of \$313 were not collected. Second, we noted in one case, that interest had not been charged when the fee payment was paid after the 90-day period for payment as prescribed in CSR 10-6.060 (12) (A) 15.

Not all fees
were collected

The NSRU staff needs to refund fees

The NSRU staff received application fees for some permits that did not require application fees. These usually occurred for amendments to permits or permits for relocation. We did not find any procedures to require NSRU staff to refund these fees or to apply them to the processing fees when the permit review is completed. We found one instance in our sample of 113 projects where a refund of a \$100 fee should have been made. We also noted, during our review of fees received from January to June 1999, six instances where filing fees had been received when they were not required and they were not refunded. In another instance the fees were applied to the permit processing fees when the permit was completed. In our opinion either applying the fees to pending permit processing fees or refunding the fees to the applicant would be equitable restitution to the applicant.

Fees should be
refunded

According to 10 CSR 10-6.060 (12)(A) 9C, if permit applications are not reviewed and completed within the required timeframe, the applicant is not required to pay the processing fees. In our 2-month sample of 113 permit applications, we found 5 instances where the processing days to complete the projects exceeded the regulatory number of processing days. In each instance, the company was billed for the processing fees and we did not find any evidence that these fees were refunded. The total for these five projects was \$1,950.

Recommendations

- A. Establish procedures and appropriate supervisory review for
 - 1.) assessing fees for permit applications that are either withdrawn or denied,
 - 2.) refunding or applying fees to pending processing fees when fees are received for permits that do not require them, and
 - 3.) refunding fees to applicants when they are improperly billed for permit processing days in excess of regulatory timeframes.
- B. Discontinue billing applicants for processing fees when NSRU does not meet regulatory timeframes.

Department of Natural Resources Comments

DNR agreed to transfer the function of assessing fees for permit applications that are either withdrawn or denied to the APCP Administration Section. DNR also stated that a change in state law might be needed to enforce collection of the fees and they will pursue legislation if necessary. DNR agreed to develop a standard procedure for refunding fees that will include transferring some of the responsibilities to the accounting group. DNR agreed to discontinue billing applicants for processing fees when NSRU does not meet regulatory time frames. They stated that billing processes would improve with the transfer of accounting functions as previously agreed. (Full text comments are included in Appendix VI, page 34).

State Auditor Comments

The response and implementation plan is acceptable. We will follow-up on the implementation plan.

4. **Financial and Management Reporting Information System**

New management reports are needed to determine the overall timeliness of the permit application review process and to determine whether the fees collected are substantially covering the cost of operations for the NSRU. Management reports that are currently available are prepared only to follow specific projects or to determine workload activity by engineer. Engineers record their time spent on permit reviews through the time accounting system but this time is not reconciled to the hours recorded on the billable hours form maintained in the Permit Tracking System project file (PATS). As a result, managers are not able to determine whether appropriate hours have been recorded on the Permit Tracking System (PATS). Responsible personnel advised that they did not plan to make the PATS system and the timekeeping system comparable. The PATS is not used to its full potential and is missing important information or not being used correctly. Improvements are needed in the various reporting systems for management to determine the time spent in the various stages of the review process as well as to determine whether all time charged to the respective projects agrees with the time recorded on the individual time sheets.

Permit Processing Management Reports

Various management reports are prepared at different time intervals to track the activity of each permit application project and the workload for each individual engineer. These reports are used for assignment of projects and to determine the status of each project before the statutory deadline is met to issue the construction permit. However, management reports designed to determine the actual time involved in processing the permit application within each program review step are not prepared. These reports would provide significant information regarding the actual processing times and help determine the cost of operating the NSRU. Presently, without this type of information, management cannot adequately evaluate the effectiveness and efficiency of the NSRU in issuing permits.

Better
management
reports are
needed

NSRU Permit Fees Worksheet

The times recorded by the engineers on the Permit Tracking System forms in each project file are not and cannot be reconciled to the times recorded on the time sheets submitted by each engineer. A job cost reporting system is needed to track the actual hours charged to the various projects and to reconcile these charges to actual time recorded on the time accounting system.

Our review of the months of September and October 1999, determined that approximately only 65 percent of the engineers' actual time spent on the job is charged to the actual job task code of permit application reviews. There is no determination made as to how much time should be recorded to the job task code and what percent of the time should be devoted to other activities that are not related to permit application review. Process review fees are charged based upon the engineers' actual time spent on the project at an hourly rate of \$50 per hour. However, it cannot be determined whether all the time spent processing applications is actually

Costs by
project need to
be reported in
the time
system

billed. The job cost reporting system should ensure that the time actually spent on a project is charged to the respective job task code and that the process review fee charged each project is properly billed. Because the NSRU does not have a job cost system we could not determine if billable hours were correct and whether applicants were billed the proper amounts.

Permit Tracking System

During our review of permit applications, we were able to make an assessment of the PATS system and identified enhancements and shortcomings that if corrected would make it a better system. A discussion of these follows.

- ❑ The PATS form does not indicate whether a filing fee has been received. This information is necessary to indicate that the filing fee has been received before the application is processed.
- ❑ The PATS form does not document the processing steps or assign responsibility for the project from the time the application is received until the time the project is assigned to an engineer. Our review of 113 projects for the two test months indicated a total of 379 days of elapsed time or an average of 3 ½ days before these projects were assigned to an engineer. During that average 3 ½ day period, the PATS system does not track who has the application. The PATS should be modified to document all processing steps and assign responsibility for each project from the time of receipt until assignment to an engineer.
- ❑ The engineers do not update PATS accurately or timely. During our review of the two test months, we noted instances where engineers requested information but did not document the request on the PATS, and instances where the application was placed in hold status but not clearly documented. Also, there was not a clear distinction as to whether work was being performed on the completeness checklist or the technical review, and there were instances of unrecorded activity.
- ❑ The finalized PATS reports are frequently missing from a completed project folder. In our review of 113 file folders, 61 (54%) did not have a final PATS report in the completed folder. Most completed folders have either missing, inaccurate, or incomplete PATS reports. The PATS reports document the total time used in the processing of each permit and provide a basis for review by management. A copy of the report should be included in each completed folder to properly document the amount of time used for each project.

Processing Fees

Time charged for process review fees includes only the engineer's time and does not include the hours of actual staff time devoted to each project. Process review fees are charged at the rate of \$50 per hour based on the actual hours charged to the project by the review engineer. This rate is more than the hourly rates paid to the engineers and was designed to recover the other costs of the review process. The requirements of state law and code of state regulations provide for the

billing of actual staff time necessary to complete the application but not to exceed the rate of \$50 per hour. Section 643.075.7(2) RSMo states that upon completion of the department's evaluation of the application, but before receiving a construction permit, the applicant shall reimburse the department for all reasonable costs incurred by the department whether or not a construction permit is issued by the department or withdrawn by the applicant. The commission shall, by rule, set the hourly charge, not to exceed fifty dollars per hour, for review of each construction permit application. Because the actual hours used by each person to complete and review the permit applications are not recorded or tracked in any manner, it cannot be readily determined whether this rate is sufficient to cover the actual cost incurred by the department.

Compute total costs

Management personnel indicated that this statutory fee was passed around 1994, but actions have not been taken since this time to provide information to the legislature on what the actual costs are for processing a permit application. Detailed studies of actual processing times and hours charged by the various staff employees and management personnel for each type of application are needed to determine whether the \$50 per hour engineer review process fee is still appropriate. If this fee is determined to be no longer appropriate, legislative changes should be requested to increase/adjust the process review fee to cover the cost of the review with future increases to account for changes in the consumer price index.

Recommendations

- A. Develop more detailed reports of actual hours used on each permit application, current status of each permit application, and the number of days used to process the application in each review stage.
- B. Develop a job cost reporting system to track the time charged to each permit application to the time actually charged on the time sheets.
- C. Ensure the PATS reports add sections to track the filing fee and the steps between the time the application is logged in until the time it is assigned to an engineer.
- D. Ensure the completed folders contain a final PATS report.
- E. Instruct engineers to exercise greater care in the timely, accurate recording of entries to the PATS system.
- F. Study the actual staff time, engineer's time, and management review time for each permit application to determine the actual and required number of hours necessary to process a permit application.
- G. Request legislation to change the statutory maximum billing rate if the actual cost of operation for each permit application exceeds the current statutory billing rate of \$50 per hour for process review time.

- H. Develop a system to determine the appropriate billing rates for each of the different classifications of employees that actually work on the permit review process.

Department of Natural Resources Comments

DNR agreed with five of the eight recommendations, proposed alternatives to two recommendations and disagreed with one recommendation. DNR agreed to assess rather than develop changes to the system to provide more detailed reports of actual hours used on each permit application, current status of each permit application, and number of days used to process the application in each review stage. DNR agreed to assess developing a job cost reporting system to track the time charged to each permit application to time actually charged on time sheets. This would require relating the current timekeeping system to the management reporting system. DNR agreed to ensure that the PATS reports track filing fees and the time between steps in the application process by evaluating additional steps to be added to the Check Application group. DNR did not agree to ensure that completed project folders contain a final PATS report opting to rely on the electronic summary version maintained on the automated system. DNR agreed to better train engineers and oversee engineers to ensure the PATS system is properly updated. DNR agreed to strive for more accurate tracking of staff time, engineer's time, and management time and will be in a better position to do so when previous recommendations are implemented. DNR agreed to recommend possible legislation for the next General Assembly regarding the adequacy of the \$50 per hour billing rate. DNR agreed to pursue an interpretation of the statute in order to implement or determine if they can implement a system to determine appropriate billing rates for each of the different classifications of employees that actually work on the permit review process. (Full text comments are included in Appendix VI, page 34).

State Auditor Comments

DNR has been responsive to the recommendations and we accept their response. For those recommendations where they partially agreed and indicated internal discussions will determine future action, we recognize that there are some technical system type changes that may be required. Since the issues discussed in the report relating to these recommendations identified a need for better management reports, we would hope that DNR's internal assessment would weigh heavily toward finding a way to improve the management reports as we suggested. We will follow-up on the implementation plans.

5. Steps Taken by the APCP

The APCP has responded favorably to concerns expressed by the industry and taken steps to enhance the operations of the NSRU. Three years ago, the APCP formed a workgroup to address specific industry complaints about the length of time it takes to process permits. The “Construction Permit Streamlining Workgroup” was organized to develop recommendations to improve the operations of the construction permitting process and included members from APCP and representatives from the industries the APCP regulates. The workgroup issued a report with recommendations for improvement, and the APCP has been developing plans and procedures to address many of the recommendations. Some improvements are in the final review stages. These actions demonstrate the desire of the APCP to work with the industry to ease their burden while maintaining the arms length relationship necessary between the regulator and regulated. Additional enhancements can also be made.

APCP
responds to
industry

Procedure Changes

The amount of time to issue a construction permit was of major concern to members of the workgroup and they focused on the amount of time the permit applications were in executive review. Improvement was made by delegating approval authority for the construction permits to the APCP instead of having them approved by the Director of the Division of Environmental Quality.

A new construction permit application, along with detailed instructions and supplemental information has been developed and is currently in executive review. This package was sent to members and associations in the regulated industry for comments, and APCP staff are evaluating the comments and preparing the new application for distribution. While we are unable to evaluate the new construction permit application package at this time, we believe the NSRU is to be commended on their efforts to improve the overall permit process.

The APCP participated in providing information to the industry through the Internet and the development of a construction permit web site. This allowed industry to access information about the permit process through the Internet.

Additional Enhancements

Some additional enhancements would help the industry better understand the permit application process and help the NSRU process applications more efficiently. These include better use of the electronic media, development of a lessons learned package, follow up on the permit-by-rule recommendations made by the Construction Permit Streamlining Workgroup, and development of standard uniform modeling procedures that, if implemented, would strengthen associations with industry and reduce the amount of time and cost to process construction permits.

The APCP Web Site

We visited the construction permit web page to gain information about the construction permit program. We were not able to obtain information directly from the page that would be helpful in determining whether a construction permit was required.

There is not any mention of, or direct link from, the construction permit page to the state statute that is applicable to construction permits. Providing access to the relevant statute is important for industries to gain a better insight into construction permit laws. By offering a direct link to the actual statute, industries could immediately go to the relevant statute without leaving the construction permit page. If this is not possible, listing the state statutes web site and mentioning the relevant statute on the construction permit page would present the industries with access to the statutes if needed.

There is a link to applicable state regulations, but it is indirect and difficult to locate without looking through all aspects of the APCP's page. Providing easy access to the relevant state regulations is important for industries to gain a better insight into construction permit rules. Currently, from the APCP page, you must access "Other Environmental Links", then "Federally Approved Rule", then "Chapter 6" to get to the relevant regulations. "Other Environmental Links" is not within the construction permit information. By providing a direct link from the construction permit page, web users would be able to locate the applicable regulations without searching through other links.

On-line access to the construction permit application, instructions or supplemental information process is needed. Providing this information on-line would allow industries to gain insight into whether a permit is required or not and what information is necessary when submitting a permit application. It would also enable industries to download the permit application instead of contacting the NSRU by phone or mail for an application. Based on our survey of 100 companies that submitted a permit application during the period January 1, 1999 through October 31, 1999 as noted in Appendix V, 56 of those responding indicated they would like to see the application package along with instructions available through the Internet. We contacted five surrounding states for various information concerning construction-permitting processes. We asked for a copy of their construction permit applications and instructions. Four out of the five states instructed us to visit their web sites to download the appropriate information.

Development of a Lessons-Learned Package

A lessons-learned package would include a summary of the more common problems encountered with processing permit applications and permit determinations and possible solutions to prevent or reduce their occurrence. In addition, commonly asked questions and answers should be developed and made available on the NSRU web sight and other information distribution channels to provide ready access to industry. Providing such information should help reduce the amount of requests for information by the engineers after an application has been submitted, and improve the quality of permit determinations and applications being received.

Implementation of Permit-by-Rule Concept

The workgroup study recommended that a permit-by-rule concept be explored with various industries. Permit-by-rule is an exemption for common industries that agree to conditions set formally by rule. The study recommended that actual rule language be developed through cooperative efforts between the industries and APCP staff. The study listed industries that were likely candidates for permit-by-rule. These included printers, grain elevators, concrete batch plants, asphalt plants, sand and gravel operations, and the wood products industry.

Modeling Procedures

Most of the construction permits issued by the NSRU contain specific requirements and procedures referred to as modeling procedures to be followed by the respective permit holder as a condition of receiving the permit. The engineers, based on the information submitted with the permit applications, determine these modeling procedures. Many of the industries have expressed concerns that the modeling procedures imposed by the engineers are different and unpredictable for similar or identical industry operations and that there is inconsistency between the engineers as to the required specific modeling procedures.

The engineers do not have a standard modeling procedures manual for the various industries that would provide standard guidance and requirements when modeling is required. Standard modeling requirements are necessary to ensure consistent treatment of similar industries and situations by the engineers and to provide industry with specific requirements that can be expected when applying for a construction permit.

Recommendations

- A. Develop a more informative and detailed web site for the construction permit process including placing the permit application and instructions on the web site. Specific information should be provided to enable businesses to be able to determine when permits are not needed.
- B. Develop a lessons-learned package for distribution to industry to improve information and the quality of permit applications.
- C. Conduct focused reviews on the industries outlined in the “Construction Permit Streamlining Workgroup” final report to determine the feasibility of establishing permits by rule.
- D. Develop standard modeling procedures and requirements for the various types of industries.

Department of Natural Resources Comments

DNR agreed with all four recommendations. They agreed to improve the web site and develop a lessons-learned package for industry to improve information and the quality of permit applications. DNR agreed to seek out additional partnerships with the industry to develop permits by rule. DNR also agreed to develop standard modeling procedures and requirements for the various types of industries. They are currently working with the limestone industry and will expand to others. (Full text comments are included in Appendix VI, page 34).

State Auditor Comments

The response is acceptable and we will follow-up on their implementation plans.

OBJECTIVE, SCOPE AND METHODOLOGY

Objective

The objective of the audit was to determine whether construction permit applications were processed, reviewed, and issued in accordance with the Missouri statutes and the Code of State Regulations, and to determine whether the Air Pollution Control Program was responsive to their customers.

Scope and Methodology

We reviewed applicable state statutes, code of state regulations, the minutes of the Air Conservation Commission, the construction permit review procedure manual, correspondence files, personnel procedures, and permit practices followed by local permitting authorities. We interviewed applicable employees, discussed concerns with various industry groups and business associations, and solicited information from other states regarding their construction permit procedures.

We selected the months of September and October 1999 to review all construction permit applications and other projects completed during these 2 months, with the exception of local permits issued by the local permitting agencies. This 2-month review was discussed with executives of the APCP, who agreed that this period would be representative of annual activity in the program.

We selected all letter requests seeking a determination of the need to file an application, all closed projects, and all applications with no permits required for the period January 1, 1999 through October 31, 1999. We reviewed all projects received from January 1, 1999 through June 30, 1999 for applicable filing fees. We also sent survey questionnaires to 100 randomly selected businesses that filed a permit application during the period January 1, 1999 through October 31, 1999. The various types of applications reviewed for the months of September 1999 and October 1999 included the following:

APPENDIX I

2-Month Workload

Project Type	Sept. 1999	Oct. 1999	Totals	% of Total
Applicability Determinations	9	16	25	22%
Banking, Sales Tax Exemptions	1	0	1	1%
Corrections, Amendments, Temporary & Pilot	9	8	17	15%
Sec 4: Relocate Approved Site	8	6	14	12%
Sec 4: Relocate to New Site	10	6	16	14%
Sec 5 & 6: De Minimis & Minor	19	19	38	34%
Sec 7, 8 & 9: Major Source Review	0	2	2	2%
Totals	56	57	113	100%

We did not examine the various types of construction projects that were not reviewed by engineers. These projects included Installation/Source Name Changes and Inter-program Coordination Tasks. Also, we did not examine Local Permits. The local offices process these projects, and the NSRU only reviews and comments on the permits.

Applicability Determinations and Section 5 & 6 permits January 1999 – October 1999

Type of Applicability Determination	Number	Permit Required	No Permit Required
Letters	154	58	96
Applications	5	0	5
Incomplete Applications	2	0	2
Totals	161	58	103
Section 5 & 6	303	257	46

The audit was made in accordance with applicable generally accepted government auditing standards and included such tests of the procedures and records as were deemed appropriate under the circumstances.

APPENDIX II

STATUTES AND CODE OF STATE REGULATIONS

The construction permit application process is governed in accordance with Section 643.075 of the RSMo and 10 CSR 10-6.060 of the Code of State Regulations. Section 643.075 prescribes that it shall be unlawful for any person to commence construction of any air contaminant source in this state without a permit if such source is of a class fixed by regulation of the commission that requires a permit. Every source required to obtain a construction permit shall make application to the department and shall submit such plans and specifications as prescribed by rule. The director shall promptly investigate each application, and if he determines that the source meets and will meet the requirements of sections 643.010 to 643.190 and the rules promulgated pursuant thereto, he shall issue a construction permit with such conditions as he deems necessary to ensure that the source will meet these requirements. If the director determines that the source does not meet or will not meet the requirements and the rules, he shall deny the construction permit.

Section 643.075 prescribes that before issuing a construction permit to build or modify an air contaminant source the director shall determine if the ambient air quality standards in the vicinity of the source are being exceeded and shall determine the impact on the ambient air quality standards from the source. The director may deny a construction permit if the source will appreciably affect the air quality or the air quality standards are substantially not being met. The director may require the applicant as a condition to the issuance of the construction permit to provide and maintain such facilities or to conduct such tests as are necessary to determine the nature, extent, quantity or degree of air contaminants discharged into the ambient air from the proposed source.

Section 643.075 prescribes that the director shall act within 30 days after a request for approval of an application for a construction permit. The director shall render a decision to approve or deny a construction permit within 90 days of receipt of a complete application for a class B source and within 184 days of receipt of a complete application for a class A source. The director shall promptly notify the applicant in writing of his action and if the construction permit is denied, state the reasons therefore. Any aggrieved person may appeal any permit decision made under this section, including failure to render a decision within the time period established in this section. A notice of appeal shall be filed with the commission within thirty days of the director's action or within thirty days from the date by which the decision should have been rendered if the director has failed to act.

Section 643.075 prescribes that there shall be a \$100 filing fee payable to the state of Missouri with each application before a construction permit shall be issued. No manufacturing or processing plant or operating location or other air contaminant source shall be required to pay more than one filing fee with a construction permit application. Upon completion of the

APPENDIX II

department's evaluation of the application, but before receiving a construction permit, the applicant shall reimburse the department for all reasonable costs incurred by the department whether or not a construction permit is issued by the department or withdrawn by the applicant. If the department fails to approve or deny a construction permit within the time period specified in this section, the applicant shall not be required to reimburse the department for the review of the construction permit application. The commission shall, by rule, set the hourly charge, not to exceed the actual cost thereof and not to exceed \$50 per hour, for review of each construction permit application. The commission may exempt any person from payment of the hourly fees under this subdivision, or may reduce such fees, upon an appeal filed with the commission by such person stating that the fee will create an unreasonable economic hardship upon such person.

Section 643.075 prescribes that if the fees or any portion of the fees imposed by this section are not paid within 90 days from the date of billing there shall be imposed interest upon the unpaid amount at the rate of ten percent per annum from the date of billing until payment is actually made. A construction permit application for a portable facility may include any site at which the portable facility is expected to be used; however, a separate site permit application shall be required when the portable facility is used or expected to be used at any site which is not included in a previously approved construction permit application. Upon receipt of the application, the applicant shall be notified by the department of hourly fees and requirements put forth in this subdivision. Applicants who withdraw their application before the department completes its evaluation shall reimburse the department for costs incurred in the evaluation.

10 CSR 10-6.060 of the code of state regulations defines sources that are required to obtain permits to construct. It establishes requirements to be met prior to construction or modification of any of these sources. The rule also establishes permit fees and public notice requirements for certain sources and incorporates a means for unifying the processing of construction and operating permit issuance. The rule shall apply to installations throughout Missouri with the potential to emit any pollutant in an amount equal to or greater than the De Minimis levels. The rule describes the various exempt emissions units and the requirements for the different levels of permits. These different levels consist of temporary installations and pilot plants permits (Section 3), portable equipment permits (Section 4) for relocation to a new site or to an approved site De Minimis and minor permits (Sections 5 & 6), and major permits (Section 7, 8, or 9).

10 CSR 10-6.060 (10) addresses permit amendments and fees. Failure to submit the filing fee constitutes an incomplete permit application. Upon the determination that a complete application for a permit or a permit amendment has been received, a fee for permit processing in the amount of \$50 per hour of actual staff time will begin to accrue. The applicant shall submit fees for the processing of the permit application within 90 calendar days of the final review determination, whether the permit is approved, denied, withdrawn or not needed. After the 90 calendar days, the unpaid processing fees shall have interest imposed upon the unpaid amount at the rate of ten percent per annum from the date of billing until payment is made.

APPENDIX II

Failure to submit the processing fees after the 90 calendar days will result in the permit being denied (revoked for portable installation location amendments) and the rejection of any future permit applications by the same applicant until the processing fees plus interest have been paid. Partially processed permits that are withdrawn after submittal shall be charged at the same processing fee rate of \$50 per hour of actual staff time.

10 CSR 10-6.060 prescribes that in order for an application to be complete, an application must include a completed application form and, to the extent not called for by the form, other information as required in the rule. Nothing shall prevent the permitting authority from requesting additional information that is reasonably necessary to process the application. The permitting authority shall maintain a checklist to be used for the completeness determination. A copy of the checklist identifying the application's deficiencies shall be provided to the applicant along with the notice of incompleteness. In requesting additional information, the permitting authority shall establish a reasonable deadline for a response. The review period will be extended by the amount of time necessary to collect the required information. An applicant shall submit an application package consisting of the standard application form and emissions information for construction permit application. The permitting authority may impose those conditions in a permit as may be necessary to accomplish the purposes of this rule, any applicable requirements, or the Air Conservation Law, Chapter 643 of the RSMo, and are no less stringent than any applicable requirements.

10 CSR 10-6.060 (13)-(16) prescribes that after making a final determination whether the permit should be approved, approved with conditions, or denied, the permitting authority shall notify the applicant in writing of the final determination and the total permit processing fees due. If payment of processing fees has not been received from the applicant 80 calendar days after the final determination, the permitting authority shall issue in writing to the applicant a final notice of payment due. No later than 3 calendar days after receipt of the whole amount of the fee due, the permitting authority will send the applicant a notice of payment received. The permit will also be issued at this time, provided the final determination was for approval and the permit processing fee was timely received.

APPENDIX III

WORKLOAD INFORMATION

Permit Applications in 1998 & 1999

	Applications in 1998				Applications in 1999			
Month	Received	Completed	Issued *	Sect. 4 Issued	Received	Completed	Issued *	Sect. 4 Issued
January	34	59	37	8	47	51	28	6
February	55	31	22	4	54	53	23	15
March	54	50	21	14	90	64	34	11
April	59	53	23	13	73	80	25	22
May	86	52	20	11	69	60	23	10
June	72	85	34	23	78	89	37	21
July	61	81	45	11	65	72	25	15
August	69	64	30	10	61	80	32	13
September	47	76	33	16	50	60	21	18
October	49	58	20	14	55	49	21	10
November	59	47	23	6	64	48	16	8
December	62	51	23	3	53	61	22	6
Total	707	707	331	133	759	767	307	155

* includes Sections 5, 6, 7, & 8 permits only

APPENDIX III

Summary of Project Activity*

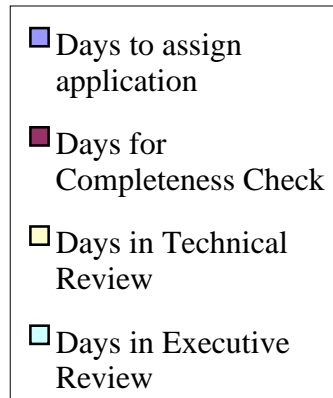
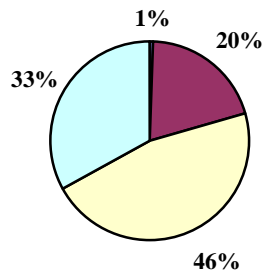
Stage	September 1999	October 1999
In Progress, Beginning	211	207
Projects Received	77	69
Projects Completed	74	69
Permits Issued	54	46
Other Projects Finished *	27	15
In Progress, Ending	207	215

* Includes Applicability Determinations, Inter-program Coordination Tasks, Banking Sales Tax Exemption, and Affected States Review.

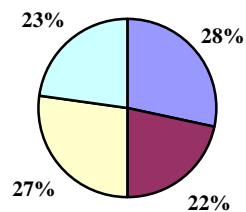
APPENDIX III

PERCENT OF DAYS IN APPLICATION PROCESSING ON CONSTRUCTION PROJECTS REVIEWED FOR SEPTEMBER 1999 AND OCTOBER 1999

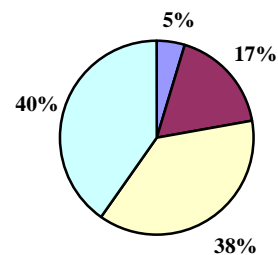
(Unified): Major Reviews



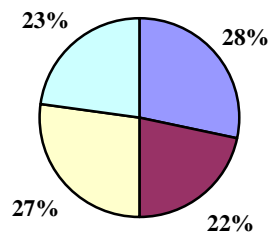
Relocations



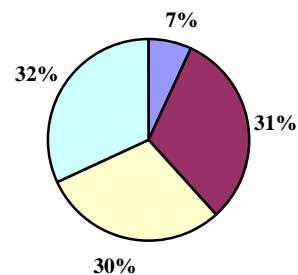
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Relocations

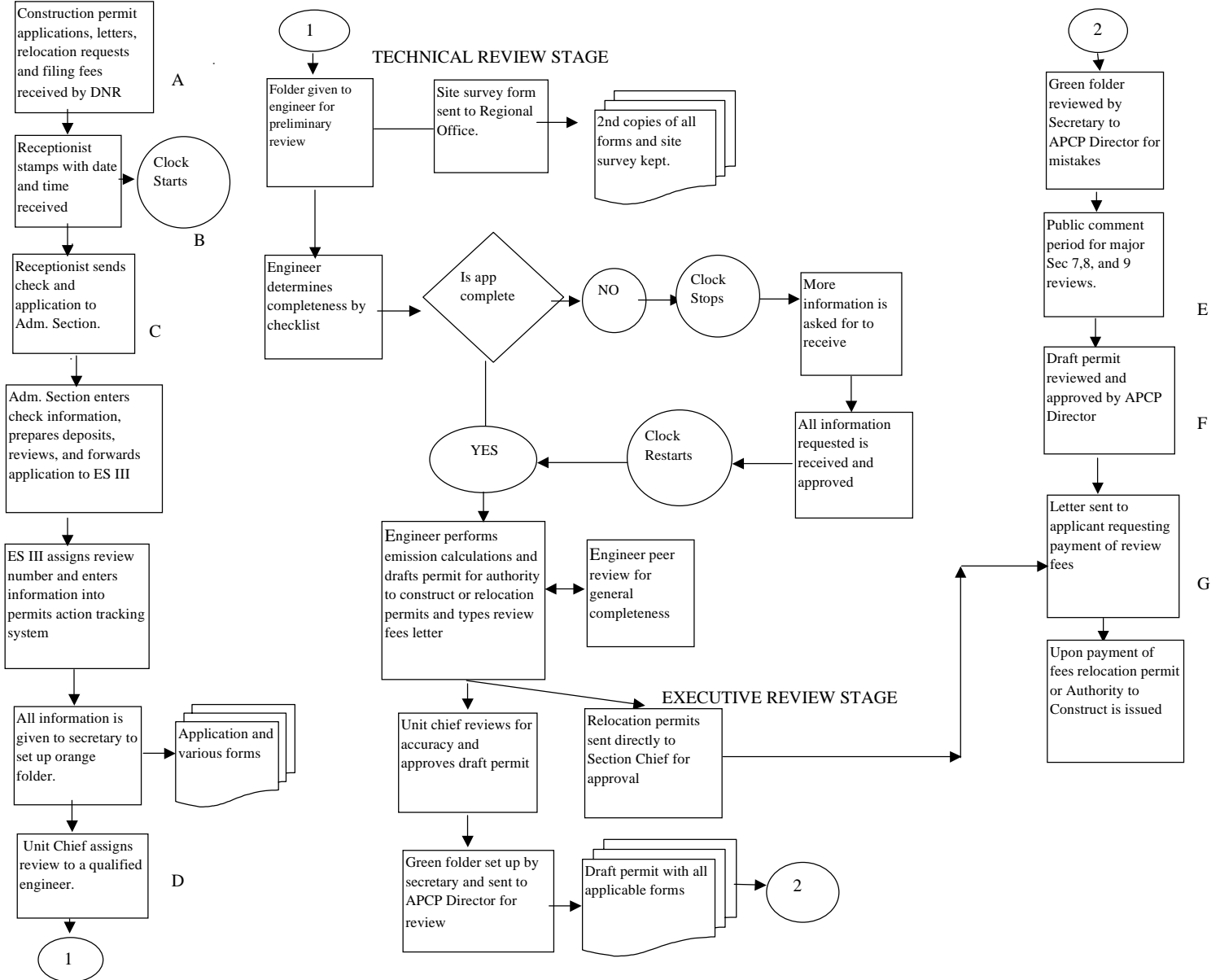


Applicability Determinations



APPENDIX IV

FLOWCHART OF PERMIT APPLICATION PROCESS



- A Filing fee of \$100 is not charged for applicability determination letters and Section 4 relocations.
- B DNR has 30 calendar days to determine completeness of the construction permit application.
- C If no check is received for a certain type of application or applicability determination letter, then the application or letter goes directly to the ES III to enter into the Permit Action Tracking System (PATs).
- D Secretary types letter to company telling that the application has been received and has been assigned to a certain engineer for review.
- E This process is statutory and requires public notice through advertisements and public hearings with time for comments.
- F The application stage did go all the way up to the Director of Environmental Quality to be approved and signed. The process was changed in June 1998 to allow program approval of permits.
- G The applicant is given 90 days to pay the review fees before interest is charged. An 80 day second fee notice is sent if not paid.

APPENDIX V

SUMMARY OF SURVEY QUESTIONNAIRE RESULTS

A survey questionnaire was sent to 100 different companies that submitted a permit application during the period January 1, 1999 through October 31, 1999. The results of this survey are as follows:

Question	Yes	No	% Yes
Enough information available to determine whether a permit was needed?	58	13	81
Permit application package complete and easy to understand?	53	16	77
Instructions accompanying the application detailed and easy to follow?	54	15	78
Did DNR permit reviewer require any unnecessary information?	14	54	21
Did you receive or need assistance from the Technical Assistance Program?	27	44	38
Were the persons who assisted helpful, knowledgeable, and polite?	26	1	96
Is the permit application process too complicated?	31	35	47
Could the application process be standardized for many of the types of construction projects performed?	30	34	47
Did the permit application process take longer than reasonably necessary?	25	48	34
Was the permit to construct issued in a timely manner?	51	19	73
Do you have ready access to the construction permit application package?	65	9	88
Would you like application package and instructions to be on Internet?	56	16	78
Is the \$100 construction permit filing fee charged reasonable?	65	9	88
Is the review fee of \$50 per hour charged reasonable?	51	22	70
Was an air quality analysis performed on your construction permit? Necessary?	17	44	28
Has your company applied for more than one construction permit?	55	19	74
Has the permit application process been consistent with your construction needs?	38	15	72
Was an on-site inspection or survey performed on the construction project before the permit was actually issued?	41	33	55

Question	Always	Sometimes	Never
Was the engineer who reviewed your permit knowledgeable and helpful?	42	17	
Did the construction permit unit appear responsive to your needs and questions?	41	19	1

APPENDIX V

An analysis of the responses indicates that the NSRU has received generally favorable customer service ratings from the respondents. The NSRU is rated in the above-75-percentile in key customer service questions (enough information available, application package easy to understand, instructions understandable, and ready access to permit package).

Respondents expressed an interest in having information available on the Internet. Over one third of the respondents believed the permit process took too long, and nearly half the respondents believed that the permit process was too complicated, and also, believed that some standardization in the application process could be accomplished for some industries. These would be areas that NSRU should strive for improvement.

APPENDIX VI

STATE OF MISSOURI
DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE DIRECTOR
P.O. Box 176 Jefferson City, MO 65102-0176

JUL 11 2000

The Honorable Claire McCaskill
Missouri State Auditor
State Capitol Building, Room 224
Jefferson City, MO 65102

Dear Auditor McCaskill:

I would like to thank you for completing the performance audit entitled, *The Department of Natural Resources Air Pollution Control Program New Source Review Unit* on our permitting function in the Air Pollution Control Program within the Division of Environmental Quality. When I contacted you to complete this performance audit, we were hoping for a product that would help us improve the operations of our Air Pollution Control Program. We would also like to replicate this assessment into our other programs. We are very pleased with the results of this audit and are in the process of implementing most of your recommendations. I am enclosing the Department of Natural Resources responses to the issues identified in the audit.

The working relationship developed between our two staffs during this audit was excellent. I believe that this audit establishes a model for performance auditing that could be useful for all state agencies. I appreciate your willingness to work with my staff in presenting the findings professionally and objectively.

Thank you for your assistance in performing this audit for the needed function for the Department of Natural Resources.

Sincerely,

DEPARTMENT OF NATURAL RESOURCES



Stephen Mahfood
Director

SM/ghb



DNR Responses to draft State Auditor Report of NSRU in 2000

1.Reorganizing the New Source Review Unit (NSRU) Would Enhance Construction Permit Processing

Recommendations	Response	Comment
A. Establish a pre-screening unit to ensure engineers are only given permit applications that are complete and ready for the engineers' technical reviews.	Agree	The APCP will staff the new unit with non-engineers who will only be checking for administrative completeness. The review engineers will still get applications where additional technical information is needed. The new unit will also conduct some permitting functions such as review of portable sources. Positions for this unit are in process of re-allocation and will be subject to the Office of Administration approval. The new unit is expected to be approved no later than November 1, 2000 and established immediately upon approval.
B. Transfer accounting functions to DNR's accounting office	Agree	APCP will be transferring this function to the APCP accounting office, rather than the DNR's. The APCP believes permits will be processed faster at a program level. Hence, activity functions will be transferred to APCP Administration Section as soon as possible, but no later than January 1, 2001.

DNR Responses to draft State Auditor Report of NSRU in 2000

Recommendations	Response	Comment
C. Request salary increases for engineers at or near private sector levels.	Agree	The DNR is supportive of the Governor's initiative, COMAP. In addition, the Division of Environmental Quality (DEQ) is looking for ways to promote non-registered engineers above the entry-level positions. The APCP will recommend options to the DEQ as soon as possible, but no later than November 1, 2000.
D.1. Analyze current workloads to determine the duties and functions that could be performed by non-engineer employees.	Agree	The new Unit (mentioned in a previous recommendation) will include additional non-engineering permitting duties. The duties and functions identified through this analysis will be moved to this Unit. These non-engineering duties will be performed as soon as the new unit is established.
D.2. Analyze current workloads to determine the number of engineer and non-engineer personnel needed to perform the NSRU functions, and recruit and hire staff accordingly.	Agree	As mentioned previously, some of the NSRU's functions will be transferred to the new unit as soon as the new unit is established.

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2. **The Process Flow of Construction Permit Applications Can Be Improved**

Recommendations	Response	Comment
A. Separate the fee check from the application and send the application immediately to the permitting section to begin processing. The check and a photocopy of the front page of the application could be sent to administration to be processed simultaneously.	Agree	The implementation of this recommendation will occur as soon as possible, but no later than November 1, 2000.
B. Review the time it takes to assign projects to engineers and ensure projects are assigned on a timely basis.	Agree	The APCP will re-evaluate the number of planned days assigned to each processing step (these are non-regulatory timeframes). This re-evaluation will be one of the first tasks of the new Unit and will be addressed as soon as the Unit is established (refer to recommendation 1.A.).

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Recommendations	Response	Comment
C. Monitor the processing times in all phases of the application review process and, take action to ensure standard time frames are met.	Agree	The <u>current</u> procedure ensures regulatory deadlines are met with a success rate of 99%. The APCP will improve the current processing time monitoring procedures to minimize deviation within each planned step and correct the 1% of projects that exceed the regulatory timeframes. The improved monitoring will occur as soon as possible, but no later than November 1, 2000. A report of the results of the improved monitoring will be available July 1, 2001 (approximately eight months of data).

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Recommendations	Response	Comment
D. Develop maximum time standards for projects placed on hold after which the applications would be canceled.	Agree in Part	<p>The APCP will work with applicants to ensure that applicants are still actively pursuing their permits. The state statute does not place a deadline on an applicant's ability to supply information. Thus, many projects are placed on hold until extensive modeling or monitoring is conducted. Often the applicant fails to respond for business reasons unknown to APCP. Projects on hold take longer to complete, but are still within the statutory timeframes (because the statute deals with the permitting authority's actions, not the applicants). Because this recommendation requires legal support and possibly a rule revision, we expect to complete implementation within 12 months, July 1, 2001. Since this change may have a negative affect on customer satisfaction, the APCP recommends that at this time we include a step called "inactive status" in PATS until we work through these issues. "Inactive Status" will begin as soon as possible, but not later than November 1, 2001.</p>

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Recommendations	Response	Comment
E. Ensure that follow-up action is timely for projects placed on hold awaiting additional information.	Agree	In addition, the APCP will shorten the length of time a project is placed on hold, from 30 days to 10 days. This recommendation should reduce the amount of time an application is awaiting additional information, or “on hold” (see attached pie charts). APCP will implement these changes as soon as possible, but no later than November 1, 2000.

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Recommendations	Response	Comment
F. Require supervisory approval before placing any project on hold.	Agree in Part	<p>The APCP has established that projects may be placed “on hold” only if additional information is necessary or if the applicant wants to delay processing for their own reasons. Unit Chief approval of each of the “on hold” requests will slow down permit processing due to the number of projects being processed. Instead, the APCP will initiate a process where the NSRU Chief reviews the projects “on hold” during the weekly unit meetings. Documentation for projects “on hold” will be recorded in the permit file as well as in PATS. This information will be available to the NSRU Chief for review. The APCP alternative will be implemented as soon as possible, but no later than November 1, 2000.</p>

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Recommendations	Response	Comment
G. Delegate the authority to approve permits for the lower priority applications to the Unit Chief	Disagree	The signature authority in the statute resides with the Department Director. The signature authority has been delegated two management levels down. It is necessary that multi-media coordination occur on permits. The lowest level of management where multi-media coordination occurs at a peer level is the level at which the permit signature is currently delegated, the APCP Program Director.
H. Establish a warning system for executives to ensure that their reviews are complete before fees are forfeited.	Agree	The APCP will evaluate the PATS's capabilities provide weekly reports that anticipate action. The results of this evaluation will be available as soon as possible, but no later than November 1, 2000. If additional resources are necessary in order to establish an early warning system, then those resources will pursued and should be available no later than July 1, 2001.

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3. **NSRU Staff Could Improve Management of Fees that Are Received for Construction Permits**

Recommendations	Response	Comment
A.1.) Establish procedures and appropriate supervisory review for assessing fees for permit applications that are either withdrawn or denied.	Agree	The APCP will transfer this function to the APCP Administration Section. While the APCP attempts to collect fees, there is no enforceable mechanism to assess these fees. A change in state law may be necessary. The Department will assess the need for legislation and pursue accordingly.
A.2.) Establish procedures and appropriate supervisory review for refunding or applying fees to pending processing fees when fees are received for permits that do not require them.	Agree	The APCP will improve this action by developing a standard procedure for refunding fees that will include the transfer of some responsibilities to the APCP accounting group. These actions will occur as soon as possible, but no later than January 1, 2001.
A.3.) Establish procedures and appropriate supervisory review for refunding fees to applicants when they are improperly billed for permit processing days in excess of regulatory time frames.	Agree	Same as above.

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Recommendations	Response	Comment
B. Discontinue billing applicants for processing fees when NSRU does not meet regulatory time frames.	Agree	The APCP's practice is to forgo the engineering fees whenever the timeframe is not met. However, the billing process will improve with the transfer of accounting functions, as noted in previous recommendations.

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4. **Financial and Management Reporting Information Systems Could Be Improved**

Recommendations	Response	Comment
A. Develop more detailed reports of actual hours used on each permit application, current status of each permit application, and the number of days used to process the application in each review stage.	Agree in Part	The APCP will assess the following issues before committing to any changes in the current procedures: cost benefit and SAM II system capabilities. The resources to study this recommendation will be pursued. Internal recommendations will be prepared as soon as possible, but no later than July 1, 2001.
B. Develop a job cost reporting system to track the time charged to each permit application to the time actually charged on the time sheets.	Agree	This recommendation could require several years to develop. The computer system will have to be tied into our existing efforts. APCP estimates a cost of \$100,000 to include this in our permit integration efforts. Internal recommendations to develop and implement this system will be pursued as soon as possible, but no later than January 1, 2001

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Recommendations	Response	Comment
C. Ensure the PATS reports add sections to track the filing fee and the steps between the time the application is logged in until the time it is assigned to an engineer.	Agree	The APCP currently tracks these steps under “Check Application”. Currently this group contains two steps. The first entry is at the program level, which is entered by the permit section staff. The second entry is at the Unit staff level. The APCP will evaluate adding more steps to the “Check Application” group as soon as possible, but no later than November 1, 2000. If additional resources are indicated by the evaluation, then those resources will be available as soon as the new Unit is established (refer to recommendation 1.A.).
D. Ensure the completed folders contain a final PATS report.	Disagree	The APCP believes the electronic version of the PATS report is sufficient. The electronic version summarizes the permitting activities. The inclusion of a final printed PATS report in the permit file would not serve any useful purpose.

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Recommendations	Response	Comment
E. Instruct engineers to exercise greater care in the timely, accurate recording of entries to the PATS system.	Agree	APCP is committing to more training and oversight to accomplish this recommendation. The APCP will immediately add periodic reminders during unit meetings. The additional training will be developed and oversight procedures implemented as soon as possible, but no later than January 1, 2001.
F. Study the actual staff time, engineers' time, and management review time for each permit application to determine the actual and required number of hours necessary to process a permit application.	Agree in Part	APCP will continue to strive for accurate tracking in permit processing. Coupled with previous recommendations, the APCP will be in a better position to address this. See recommendation 4.A.
G. Request legislation to change the statutory maximum billing rate if the actual cost of operation for each permit application exceeds the current statutory billing rate of \$50 per hour for process review time.	Agree	The APCP will recommend possible legislation for the next session of the General Assembly.

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Recommendations	Response	Comment
H. Develop a system to determine the appropriate billing rates for each of the different classifications of employees that actually work on the permit review process.	Agree	We have interpreted the law as it is presented in the permit rule. APCP will evaluate this recommendation. This proposal is a more complicated billing system than our current method. A legal request for statute interpretation will be prepared as soon as possible, but not later than January 1, 2001.

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5. The APCP Has Taken Positive Steps to Assist Industry

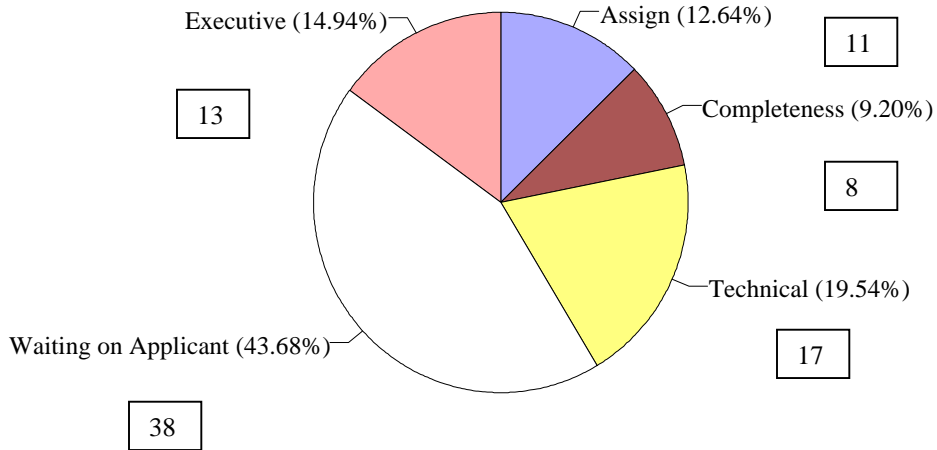
Recommendations	Response	Comment
A. Develop a more informative and detailed web site for the construction permit process including placing the permit application and instructions on the web site. Specific information should be provided to enable businesses to be able to determine when permits are not needed.	Agree	The APCP will pursue the recommendation no later than January 1, 2001.
B. Develop a lessons-learned package for distribution to industry to improve information and the quality of permit applications.	Agree	The APCP will pursue this recommendation as soon as possible, but no later than July 1, 2001.
C. Conduct focused reviews on the industries outlined in the "Construction Permit Streamlining Workgroup" final report to determine the feasibility of establishing permits by rule.	Agree	The time to implement this recommendation subject to availability and interest of industrial associations. The APCP will seek out additional partnerships to develop "permits by rule." This recommendation will be initiated as soon as possible, but no later than January 1, 2001.
D. Develop standard modeling procedures and requirements for the various types of industries.	Agree	The APCP is currently working with the limestone producers association to develop procedures for modeling and permitting. The resources and staff will be re-allocated for this recommendation as soon as possible, but no later than July 1, 2001.

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Data For 1998 and 1999

Minor Source

average # days



Major Review

average # days

